

**IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
VIRGINIA
(Newport News Division)**

TOWANDA R. FUTRELL

Plaintiff,

v.

Civil Action No.: 4:23-cv-00118-JKE-DEM

DANIEL L. CRAMER

and

AV LEASING, LLC, TRITON LOGISTICS, INC.

Defendants and Third-Party Plaintiff,

v.

ANTONIO WIGGINS

and

FUTRELLS PARTY ADVENTURES, LLC,

Third-Party Defendants.

PLAINTIFF'S PRETRIAL DISCLOSURE FRCP 26 (a)(3)

The Plaintiff pursuant to Federal Rules of Civil Procedure Rule FRCP 26 (a)(3) hereby respectfully submits Plaintiff's Pretrial Statement and states as follows:

1. Parties and Counsel:

a. Plaintiff's Counsel for Towanda Futrell

Christopher M. FitzPatrick, Esq. (VSB Bar No. 90394)
Morgan and Morgan, DC, PLLC
1901 Pennsylvania Avenue, NW Suite 300
Washington, D.C. 20006
(202) 772-0566- phone #
(202) 772-0616-fax#
cfitzpatrick@forthepeople.com

b. Defense Counsel for *Defendant AV Leasing, LLC. and Triton Logistics, Inc.*

Terrence L. Graves, Esq (VSB Bar No. 32705)
SANDS ANDERSON PC
919 East Main Street, Suite 2300
P.O. Box 1998
Richmond, VA 23218-1998
Telephone: (804) 648-1636
Fax: (804) 783-7291
tgraves@sandsanderson.com asanaullah@sandsanderson.com

c. Counsel for *Defendant Daniel Lee Cramer*

Shawn A. Voyles, Esq
Paul R. Schmeding, Esq. (VSB #89542)
MCKENRY DANCIGERS DAWSON, PC
192 Ballard Court, Suite 400
Virginia Beach, VA 23462
Telephone: (757) 461-2500
Fax: (757) 461-2341
SAVoyles@va-law.com
PRSchmeding@va-law.com

d. Counsel for *Third-Party Defendant Antonio Wiggins and Futrells Party Adventures, LLC*

Angela R. MacFarlane (VSB No. 87776)
Danielle D. Giroux (VSB No. 4401)
HARMAN, CLAYTOR, CORRIGAN & WELLMAN
P.O. Box 70280
Richmond, Virginia 23255
Telephone: (804) 747-5200
Fax: (804) 747-6085
amacfarlane@hccw.com

2. **Nature of Case:** This is an truck/bus tragic rear end collision that occurred on December 16, 2022 Interstate I-64 in which a driver the Defendant, Daniel L. Cramer of an 18 wheel old truck owned by Defendant Triton Logistics and AV Leasing was severely fatigued and rear ended crashed into a Party Bus at approximately 65 mph and 70 mph in which three (3) people were killed and 20 were seriously injured including the Plaintiff, Towanda Futrell.

3. Plaintiff contends that Defendant Daniel Cramer was negligent in his operation of his 18 wheel truck in being severely fatigued and falling a sleep behind the wheel which is unequivocally supported by the National Transportation and Safety Board findings in which 3 minutes prior to impact Defendant, Daniel L Cramer was swerving his vehicle and concluded as well 5 seconds prior to impact he was swerving his vehicle out of his lane up on the right shoulder and had clear vision of the Party Bus rear lights according to the NTSB report. Defendant Triton Logistics, Inc. is vicariously liable pursuant to Respondeat Superior.

In addition, Plaintiffs allege that Triton Logistics, Inc. was negligent as memorialized in the NTSB

report dated August 12, 2024, in permitting an illegal arrangement to occur within the company that falsified records to make it appear that drivers were on the road for less time when in reality they were on the record more than fourteen (14) hours in violation of federal regulations which the National Transportation Board concluded was a cause of this accident. The conduct was egregious and concluded to be a contributing factor in causing not only the fatigue of the driver, Daniel Cramer but was a substantial factor in causing this collision.

3. Claims or Defenses: AV Leasing, and Triton Logistics, Inc have asserted the defenses of contributory negligence against the Plaintiff Towanda Futrell and have filed a Third-Party Complaint against Plaintiff asserting that Third Party Defendant Futrell Adventures, Inc. and Antonio Wiggins were contributorily negligent and responsible for this incident.

4. List of witnesses and witnesses proposed schedules

a. Towanda Futrell-Expected to testify on October 15th and/or 16th (Time 2 hours)
3211 Omohundro Avenue
Norfolk, Virginia 235304

The Plaintiff will testify as to the events of the collision itself leading up to it and afterwards as well as her injuries and all medical treatment, medical bills future medical treatment, future medical expenses, lost earnings past and present and past pain and suffering and future pain and suffering.

b. Curtis Futrell-Expected to testify October 15th and/or 16th (Time estimate 20 minutes)
3211 Omohundro Avenue
Norfolk, Virginia 235304

This witness is the husband of Towanda Futrell and will be testifying as to the past pain and suffering and future pain and suffering that his wife Towanda Futrell as had to endure as well as her injuries that inhibited her from working.

c. Antonio Lamont Wiggins-Expected to testify October 16th (Time estimate 30 minutes)
Hampton, Virginia

This witness was the driver of the party bus and is expected to testify about the events leading up to the collision and after the collision.

d. *Dr. James Gilbert-Expected to testify October 16th and/or 17th (Time estimate 90 minutes)
7811 Montrose Road
Suite 340
Potomac, Maryland 20854

This is Plaintiff's expert orthopedic surgeon who is expected to testify regarding Plaintiff's injuries which consist of two surgeries to her right ankle open reduction and internal fixation and will testify that Defendants' negligence proximately caused Plaintiff's injuries

e. * Paul V. Herbert-Expected to testify October 16th and/or 17th(Time estimate 90 minutes)
493 Main Street
Quincy, California 95971-9613

This is Plaintiff's expert liability witness and is expected to testify as to the fact that the truck driver Daniel L. Cramer's severe fatigued coupled with Triton Logistics, Inc his employer not having in place safe procedures and protocols to ensure that their drivers are rested were the proximate cause of the rear end collision that proximately caused the Plaintiff Towanda Futrell's severe personal injuries. His opinions are contained in his FRCP 26 (a) (2) expert report timely filed with this court.

f. * Dr. David Matthew Romano-Expected to testify October 16th and/or 17th (Time estimate 2 hours)
Riverside Health System Orthopedics
1220 Warwick Blvd Suite 310
Newport News, Virginia 23601

This is Plaintiff's treating orthopedic surgeon and will be testifying as to Plaintiff's injuries fractured right ankle and fractured left jaw and other injuries the two surgeries he performed. Dr. Romano is also expected to testify to the past pain and suffering, future pain and suffering, past lost earnings, past medical expenses and future medical expenses that Plaintiff Towanda Futrell sustained. His opinions are contained in Plaintiff's FRCP26 (a) (2) expert witness disclosure.

g. * Dr. Jeffrey Aaron Levy-Expected to testify October 17th and/or 18th (Time estimate 35 minutes)
Riverside Health System Orthopedics
12200 Warwick Blvd Suite# 310
Newport News, Virginia 23601

This is plaintiff's treating orthopedic foot and ankle specialist. This witness is expected to testify as to Plaintiff's injuries to her fractured right ankle. Dr. Levy is also expected to testify to the past pain and suffering, future pain and suffering, past lost earnings, past medical expenses and future medical expenses that Plaintiff Towanda Futrell sustained. His opinions are contained in Plaintiff's FRCP 26 (a) (2) expert witness disclosure.

h. * Dr. Vincent J. Verdi-Expected to testify October 17th and/or 18th (Time estimate 45 minutes)
3921 Granby Street
Norfolk, Virginia 23504

Dr. Verdi is Plaintiff's treating ophthalmologist and will testify that Plaintiff's injury to left her eye socket was causally related to Defendants negligence and will testify as to past and future pain and suffering, past and future medical expenses and past lost earnings. His opinions are referenced in Plaintiff's FRCP 26 (a) (2) expert witness disclosure.

i. * Patrick Drudy, PT-Expected to testify October 17th and/or 18th (Time estimate 40 minutes)
3509 Granby Street
Norfolk, Virginia 23504

Mr. Drudy is Plaintiff's treating Physical Therapist and is expected to testify as to the extent of Plaintiff's injury to her fractured right ankle and the physical therapy needed to rehabilitate her injury. Mr. Drudy's opinions are memorialized in Plaintiff's 26 (a) 2) and his Physical Therapy records that have been exchanged with Defense Counsel.

j. *Dallas Alexander Lea II, M.D-Expected to testify October 17th and/or 18th (Time estimate 90 minutes)
Lea Medical Partners, LLC
1400 Spring Street, Suite 400
Silver Spring, Maryland 20910

Dr. Dallas Lea is a physician that specializes in Physical Medicine and Rehabilitation and an expert Life Care Planner. Dr. Lea is expected to testify as to the Plaintiff's need for future medical treatment and the future costs that are outlined in his future cost tables that are attached to his FRCP 26 (a) (2) expert witness disclosure.

k. Virginia State Trooper Albert Gasparyan-Expected to testify October 16th and/or 17th
(Time estimate 45 minutes)
Virginia State Police Department
1200 Airport Road
Williamsburg, Virginia 23187

Trooper Albert Gasparyan was on the scene and authored to the Police Report regarding this collision that took place on December 16, 2022. He is expected to testify as to the Virginia State Police Investigation that occurred and his respective findings

l. First Sergeant Denis Bicking -Expected to testify October 16th and/or 17th (Time estimate 45 minutes)
Virginia State Police Department
1200 Airport Road
Williamsburg, Virginia 23187

First Sergeant Bicking assisted with the formal investigation. He is expected to testify as to the respective Virginia State Police Investigation and the findings that the Virginia State Police made with respect to their respective investigation.

m. Virginia State Trooper Gungaajargal Turek-Expected to testify October 16th and/or 17th
(Time estimate 25 minutes)
Virginia State Police Department
1200 Airport Road
Williamsburg, Virginia 23187

Trooper Bicking assisted with the formal investigation. He is expected to testify as to the respective Virginia State Police Investigation and the findings that the Virginia State Police made with respect to their respective investigation.

n. Virginia State Trooper Tony Fuentes-Expected to testify October 16th and/or 17th
(Time estimate 25 minutes)
Virginia State Police Department
1200 Airport Road
Williamsburg, Virginia 23187

Trooper Fuentes assisted with the formal investigation. He is expected to testify as to the respective Virginia State Police Investigation and the findings that the Virginia State Police made with respect to their respective investigation.

o. Dennis J. Collins-Expected to testify October 16th and/or 17th (Time estimate 25 minutes)
National Transportation Safety Board
490 L'Enfant Plaza SW
Washington, DC 20024

Mr. Collins was a lead Federal National Transportation and Safety Board investigator who investigated the cause of this collision. Mr. Collins is expected to testify as to NTSB's preliminary report dated October 17, 2023, and the NTSB's final report dated August 12, 2024, that was formally released on August 28, 2024.

p. Kenneth Bragg-Expected to testify October 16th and/or 17th (Time estimate 25 minutes)
National Transportation Safety Board
490 L'Enfant Plaza SW
Washington, D.C. 20024

Mr. Bragg was a lead Federal National Transportation and Safety Board investigator who investigated the cause of this collision. Mr. Bragg is expected to testify as to NTSB's findings of fact and conclusions in the NTSB report that was formally released on August 28, 2024.

q. Jennifer Hormendy- Chairman-Expected to testify October 16th and/or 17th (Time estimate 25 minutes)
National Transportation Safety Board
490 L'Enfant Plaza SW
Washington, D.C. 20024

Ms. Hormendy's name appears on the final report and reviewed all findings of fact and conclusions and approved them is expected to testify as to all findings of fact and conclusions made by the NTSB in their final report dated August 12, 2024

r. Michael Graham- Member- listed on August 12, 2024, report--Expected to testify October 16th and/or 17th
(Time estimate 25 minutes)
National Transportation Safety Board
490 L'Enfant Plaza SW
Washington, D.C. 20024

Mr. Graham's name appears on the NTSB's final report and reviewed all findings of fact and conclusions and approved them and is expected to testify as to all findings of fact and conclusions made by the NTSB in their final report dated August 12, 2024.

- s. Thomas Chapman-Member listed on August 12, 2024, report-Expected to testify October 16th and/or 17th (Time estimate 25 minutes)
National Transportation Safety Board
490 L'Enfant Plaza SW
Washington, D.C. 20024

Mr. Chapman's name appears on the NTSB's final report and reviewed all findings of fact and conclusions and approved them and is expected to testify as to all findings of fact and conclusions made by the NTSB in their final report dated August 12, 2024.

- t. Alvin Brown – Member listed on August 12, 2024, report-Expected to testify October 16th and/or 17th (Time estimate 25 minutes)
National Transportation Safety Board
490 L'Enfant Plaza SW
Washington, D.C. 20024

Mr. Brown's name appears on the NTSB's final report and reviewed all findings of fact and conclusions and approved them and is expected to testify as to all findings of fact and conclusions made by the NTSB in their final report dated August 12, 2024.

- u. J. Todd Inman – Member listed on August 12, 2024, report-Expected to testify October 16th and/or 17th (Time estimate 25 minutes)
National Transportation Safety Board
490 L'Enfant Plaza SW
Washington, D.C. 20024

Mr. Inman's name appears on the NTSB's final report and reviewed all findings of fact and conclusions and approved them and is expected to testify as to all findings of fact and conclusions made by the NTSB in their final report dated August 12, 2024.

- v. Any and all NTSB employees listed in Findings of Fact and studies in the link above.

6. Exhibits

1. Virginia State Police Report dated December 16, 2022
2. National Transportation Safety Board report dated October 17, 2023
3. National Safety Transportation Board final report dated August 12, 2024
4. Riverside Health Medical System Medical Records
5. Riverside Health Medical System Medical Bills - \$71,566.43
6. Riverside Orthopedic Sports Medicine Medical Records

7. Riverside Orthopedic Sports Medicine Medical Bills - \$6,346.85
8. Ivy Rehab Physical Therapy records
9. Ivy Rehab Physical therapy medical bills - \$11,343.69
10. Dr. Vincent Verdi's medical records.
11. Dr. Vincent Verdi's medical bills - \$654.00
12. Plaintiff's Photographs 1-9
13. Party Bus Repair Records

7. Deposition Testimony

A. Towanda Futrell's Deposition Transcript dated July 22, 2024.

p. 30 line 1-22

p. 31 line 31-32

p. 32 line 12-25

p. 34 line 3-10

p. 38 line 11-18

p. 40 line 1-11

p. 43 line 7-11

p. 44 line 18-24

p. 46 line 1-22

p. 50 line 15-21

p. 54 lines 1-7

p. 75 lines 8-25

p. 77 lines 3-23

p. 78 lines -12- 12-16

p 84 line 3-9

p 104 lines 5-25

p.175 lines 1-325

p. 176 lines 1-25

p. 177 lines 2-8

p. 180 lines 1-25

p. 181 lines 1-25

p. 182 lines 1-25

p. 183 lines 1-25

p. 184 lines 1-25

p. 185 lines 1-25

B. Defendant Daniel Cramer's deposition testimony dated May 8, 2024

p. 13 lines 9-21

p. 14 lines 2-5

p. 16 lines 3-22

p. 22 lines 4-6

pp 22 and 23 lines 17-22, lines 1-4

pp. 24, 25 lines 17-20

p. 25 lines 5-14

p. 26 lines15-21

p. 27 lines 3-8

p. 27 lines 16-20

p. 29 lines 10-17

p. 33 lines 9-16

p. 35 lines 10-14

p. 37 lines 1-19

p. 52 lines 21-22

p. 53 lines 2-12

p. 53 lines 18-22

p. 54 lines 1-5

p. 55 lines 8-13

p. 56 lines 15-16

p. 57 lines 2-13

p. 59 lines, 1-2

p. 59 lines 9-14

p. 60 lines 2-5

p. 64 lines 5-7

p. 65 lines 8-12

p. 66 lines 11-14

pp. 66 -67 lines, 21-22 lines 1-4

p. 68 lines 12-15

p. 70 lines 1-9

p. 70 lines 10-20

p. 78 lines 2-11

C. Deposition Testimony of Antonio Wiggins (July 22, 2024)

p. 12 lines 13-21

p. 24 lines 9-14

p. 25 lines 7-5

p. 26 lines 12-25

p. 25 lines 7-15

p. 42 lines 12-15

p. 43 and 44 lines 21-24, 44 lines 1-3

p. 44 line 16-20

p. 45 lines 19-22

p. 46 lines 3-11

p. 48 lines 2-9

p. 49 lines 18-22

D. Deposition of Andrew Voveris- Corporate Designee for AV Leasing, LLC (June 14, 2024)

p. 12 lines 1-8

p. 13 lines 3-20

p. 65-66 lines 20-22, line 66 line 1

p. 67 lines 12-14

p. 68 lines 17-21

p. 94 lines 2-6

p. 108 lines 1-11

p. 109 lines 9-12

E. Deposition Testimony of Andrew Voveris- Corporate Designee of Triton Logistics, Inc. (September 5, 2024)

p. 9 lines 11-13

p. 10 lines 1-3

p. 10 lines 4-7

p. 10 lines 16-18

p. 11 lines 13-16

p. 12 lines 3-7

p. 13 lines 11-14

p. 12 lines 12-22

p. 16 lines 10-22

p. 17 lines 2-8

p. 17 lines 6-22

p. 18 line 6-16

p. 19 lines 1-6

p. 33 line 7-22

pp. 33 line 1-22, p. 34 lines 1-22

p. 35 lines 1-14

pp. 35,36 lines 19-36

p. 36 lines 19-20

p. 37 Lines 1-9

p. 38 lines 1-9

p. 39 lines 1-7

p. 39 lines 9-22

p. 40 lines 5-19

pp. 41-42 lines 4-11, line 1-22

p. 43 lines 3-10

p. 44 lines 7-22
p. 45 lines 4-16

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p. 47 lines 11-2

p. 47, 48 lines 17-33, lines 1-18

p. 49, 50 13-22, p. 50. lines 1-6

p. 50 lines 7-10

p. 50 lines 15-17, 18-22

p. 51 lines 1-19

p. 52 lines 10-17, lines 16-22

p. 53 lines 1-5

p. 54 lines 1-22

p. 55 lines 1-18

p. 55,56 lines 21-22, lines 1-5

p. 56 lines 11-18

p. 57. lines 6-17

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p. 60, 61 lines 2-22, lines 8-18

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p. 62, 63 lines 15-22, lines 1-22

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p. 70- lines 3-15

p. 70 lines 16-22

p. 71 lines 1-7

p. 71 lines 11-17

p. 72 lines 5-11

pp 72 lines 19-22, p. 73 lines 2-7

p. 73 lines 19-22

pp. 75-76 lines 22, p. 76 1-17

p. 78 lines 5-7, lines 8-11

pp. 79-80 lines 4-22, lines 1-11

p. 80 lines 13-21

p. 81 lines 4-8, 12-20

p. 82 lines 1-3

pp. 82, 83 lines 18, 22,

p. 83 lines 1-22

p. 84 lines 4-7

p. 85 lines 3-7

p. 85 lines 9-16

p. 85 lines 20-22 -86, p. 86 line 1

p. 86 lines 16-21

p. 87 lines 1 -8

p. 88 lines 13-22

p. 89 lines 4-16

p. 89 lines 7-22

p. 90 lines 5-14

p. 92 lines 3-22

p. 93 line 12-22

p. 94 lines 1-122

p. 95 lines 13-16

p. 95 lines 21-22

p. 96 lines 1-22

p. 97 lines 2-11

p. 97 lines 19-21

p. 98 lines 1-3

p. 98 lines 4-10, lines 11-22

p. 99-100 lines 16-22 p. 100 lines 1-3

p. 106 lines 5-19

Respectfully submitted,

/s/Christopher M. FitzPatrick
Christopher M. FitzPatrick, Esquire
VSB# 90394

Morgan & Morgan, DC PLLC
1901 Pennsylvania Avenue NW, Suite 300
Washington, DC 20006
Email: cfitzpatrick@forthepeople.com
Phone: (202) 772-0566
Fax: (202) 772-0616
Counsel for the Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of September 2024, a copy of the forgoing was served via PACER electronic system:

Terrence L. Graves, Esq. (VSB No. 32705)
Aaisha M. Sanaullah, Esq. (VSB No. 98389)
SANDS ANDERSON PC
919 East Main Street, Suite 2300
P.O. Box 1998
Richmond, VA 23218-1998
Telephone: (804) 648-1636
Fax: (804) 783-7291
tgraves@sandsanderson.com
asanaullah@sandsanderson.com

*Counsel for Defendant/Third-Party Plaintiff
AV Leasing, LLC*

Danielle D. Giroux (VSB No. 45401)
HARMAN, CLAYTOR, CORRIGAN & WELLMAN
1900 Duke Suite, Suite 210
Alexandria, VA 22314
Telephone: (804) 747-5200
Fax: (804) 747-6085
dgiroux@hccw.com

*Counsel for Third-Party Defendant
Antonio Wiggins and Futrells Party Adventures,
LLC*

Shawn A. Voyles, Esquire (VSB No. 43277)
Paul R. Schmeding, Esquire (VSB #89542)
MCKENRY DANCIGERS DAWSON, PC
192 Ballard Court, Suite 400
Virginia Beach, VA 23462
Telephone: (757) 461-2500
Fax: (757) 461-2341
SAVoyles@va-law.com
PRSchmeding@va-law.com

Counsel for Defendant Daniel Lee Cramer

Angela R. MacFarlane (VSB No. 87776)
HARMAN, CLAYTOR, CORRIGAN & WELLMAN
P.O. Box 70280
Richmond, Virginia 23255
Telephone: (804) 747-5200
Fax: (804) 747-6085
amacfarlane@hccw.com

*Counsel for Third-Party Defendant
Antonio Wiggins and Futrells Party
Adventures, LLC*

/s/Christopher M. FitzPatrick

Christopher Fitzpatrick, Esq.,